

F I L E D

JUN 23 1998

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

GEN 98-1

IN THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA

STANDARDS FOR ABATEMENT OF PROCEEDINGS  
AND FOR RELIEF FROM ABATEMENT  
IN STATE BAR COURT

As a consequence of the State Bar's current lack of statutory authority to collect annual membership fees from its members in an amount in excess of \$77.00, the State Bar has determined that it must lay off the majority of its employees, including a majority of the employees of both the State Bar Court and the State Bar's Office of the Chief Trial Counsel. The layoff of those employees is currently scheduled to occur on June 26, 1998.

In anticipation of such layoff, each State Bar Court Hearing Judge shall review the cases to which he or she has been assigned and shall determine which of those cases should be abated. The Hearing Judge to whom the cases are assigned shall abate the cases effective at 5:00 p.m. on June 26, 1998, unless a case has been taken under submission for decision on or before June 26, 1998, or the judge concludes that a matter meets one or more of the following standards:

1. A disciplinary proceeding which meets all of the criteria set forth in A., B., and C. below:
  - A. The matter is set for trial prior to December 31, 1998;
  - B. The member is currently eligible to engage in the practice of law and the allegations of the notice of disciplinary charges, if proven, demonstrate that the member poses a continuing threat of serious harm to his or her clients, the public or the courts; and
  - C. The allegations of the notice of disciplinary charges, if proven, would likely warrant a recommendation that the member be disbarred or suspended from the practice of law for a substantial period of time.

2. A case in which a substantial portion of the evidence has been presented during the course of trial, but some portion of the trial, argument or briefing remains.
3. A case in which a petitioner seeks to establish his or her rehabilitation, present fitness to practice and present learning and ability in the general law pursuant to Standard 1.4(c)(ii) as required by order of the Supreme Court as a condition to his or her relief from suspension ("V" case).
4. A moral character petition for admission to practice ("M" case) that is set for trial prior to December 31, 1998.
5. A petition for reinstatement to the practice of law ("R" case) that is set for trial prior to December 31, 1998.
6. A criminal conviction referral case ("C" case) in which the attorney has been interimly suspended from practice, and it appears likely that abatement may cause the period of interim suspension to exceed any recommended period of disciplinary suspension.
7. A case where inactive status of an attorney is sought pursuant to Business and Professions Code sections 6007(b)(1), 6007(b)(3) or 6007(c) ("TE" and "TT" cases).
8. A case in which the parties have tentatively agreed to a stipulation as to findings of fact and conclusions of law or to findings of fact, conclusions of law and disposition but have not yet finalized the stipulation.
9. A case in which a motion for entry of default has been filed but the respondent has not filed an answer and the time for doing so has not yet expired.

In any unabated case in which a Hearing Judge files a decision and either the State Bar or the respondent, applicant or petitioner timely files a request for review in the State Bar Court Review Department, the matter shall be abated upon service on the parties of the completed Hearing Department reporter's transcript unless the Review Department determines the case meets one of the above-listed nine standards.

In the event that the noticed layoff of the majority of employees of the State Bar Court and the Office of the Chief Trial Counsel is implemented on June 26, 1998, all pending proceedings in the Review Department of the State Bar Court shall be abated, effective at 5:00 p.m. on June 26, 1998, with the exception of those cases which have been taken under submission for opinion by the Review Department and those cases which are currently set for oral argument before the Review Department in June 1998, and with the further exception of those cases that the Review Department determines meet one of the first seven standards set forth above

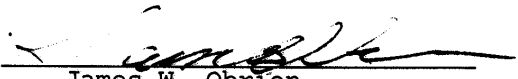
for exception from abatement.

Any State Bar Court proceeding which is abated pursuant to this order shall be stayed and all time limitations applicable to the proceeding shall be tolled. During the abatement of the proceeding in the Hearing Department, no formal discovery shall be conducted except upon the mutual agreement of the parties. However, this order of abatement shall not preclude the parties from (a) engaging in informal discovery; (b) reaching agreement upon written stipulations pursuant to rules 131-133 of the Rules of Procedure of the State Bar of California or filing such written stipulations in the State Bar Court; or (c) moving for dismissal pursuant to rule 262(f) of the Rules of Procedure of the State Bar.

This order of abatement shall continue until further order of the assigned Hearing Judge or of the Review Department. Relief from this order of abatement shall only be granted upon demonstration of one or more of the following:

1. The proceeding meets the criteria set forth above for the determination of the cases which should not be abated;
2. The respondent or petitioner is currently ineligible to practice law and cannot resume practice until his or her proceeding is concluded and, additionally, the continued abatement of the proceeding will result in actual prejudice to the respondent or petitioner;
3. The five-year period for admission to the practice of law specified in rule IX of the Rules Regulating Admission to Practice Law will expire within one year of the date of this order;
4. The continued abatement of the proceeding will result in actual prejudice to the ability of a party to ultimately receive a fair and impartial adjudication of the proceeding.

Requests for relief from this abatement order shall be made pursuant to rule 105 of the Rules of Procedure of the State Bar and shall be presented in the first instance to the judge or department before whom the proceeding is pending at the time this abatement order becomes effective. The order of a hearing judge upon a request for relief from this abatement order shall only be reviewable pursuant to rule 300 of the Rules of Procedure of the State Bar.

  
James W. O'Brien  
Presiding Judge